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Unilateral economic measures as a means of political and economic coercion against developing countries

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 58/198, entitled "Unilateral economic measures as a means of political and economic coercion against developing countries". In accordance with that resolution, the Secretary-General invited the Governments of all States to provide their views or any other relevant information on the issue of unilateral economic measures as a means of political and economic coercion against developing countries. The texts of the replies received from Argentina, Bulgaria, Cuba, Guatemala, Honduras, Iraq, Jamaica, Kazakhstan, Panama, Senegal, Sudan, the Syrian Arab Republic, Trinidad and Tobago and Uruguay are reproduced in the report. In addition, relevant organizations, programmes and agencies inside and outside the United Nations system were invited to provide information concerning developments in the subject area. The texts of the replies received from the Economic and Social Commission for Western Asia and the Office of the United Nations High Commissioner for Human Rights are also reproduced in the report.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 58/198 of 23 December 2003, entitled "Unilateral economic measures as a means of political and economic coercion against developing countries". In that resolution, the Assembly, inter alia, urged the international community to adopt urgent and effective measures to eliminate the use of unilateral coercive economic measures against developing countries that were not authorized by relevant organs of the United Nations or were inconsistent with the principles of international law as set forth in the Charter of the United Nations and that contravened the basic principles of the multilateral trading system.

2. In the same resolution, the General Assembly requested the Secretary-General to continue to monitor the imposition of measures of that nature and to study the impact of such measures on the affected countries, including the impact on trade and development, and to report to the Assembly at its sixtieth session on the implementation of the resolution.

3. Accordingly, the Secretariat, in a note verbale dated 2 June 2005, invited the Governments of all States to provide their views or any other relevant information on the issue. As at 7 September 2005, replies had been received from the following 14 States: Argentina, Bulgaria, Cuba, Guatemala, Honduras, Iraq, Jamaica, Kazakhstan, Panama, Senegal, the Sudan, the Syrian Arab Republic, Trinidad and Tobago and Uruguay. The texts of the replies are reproduced in section II below.

4. In addition, relevant organizations, programmes and agencies inside and outside the United Nations system were also invited to provide information and analyses concerning recent developments in the subject area. Based on the information received, section III of the report contains the text of the replies from two United Nations bodies.

II. Replies received from States

Argentina

[Original: Spanish]
[29 June 2005]

Argentina continues to support the General Assembly resolution of December 2003 on this matter. In all international forums, it has voted to prevent the use of coercive economic measures. In this connection, one should note the Calvo Doctrine of rejecting international pressure for the collection of external debts. Argentina's domestic legislation rejects external pressure intended to influence political and economic decisions taken in accordance with a State's domestic legislation.

On 5 September 1997, the Argentine Government promulgated Act No. 24,871, which establishes the regulatory framework relating to the scope of foreign legislation within the national territory. Under that Act, foreign legislation that is aimed, directly or indirectly, at restricting or impeding the free flow of trade and the movement of capital, goods or persons to the detriment of a given country or

group of countries shall neither be applicable nor have legal effects of any kind within the national territory.

Article 1 of the aforesaid Act stipulates that foreign legislation that seeks to have extraterritorial legal effects through the imposition of an economic embargo or limits on investment in a given country in order to elicit a change in the form of government of a country or affect its right to self-determination shall be utterly inapplicable and devoid of legal effect.

For information purposes, it should be noted that paragraph 5 of the Doha Declaration of 16 June 2005 of the Second South Summit reads as follows: "We firmly reject the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries."

Bulgaria

[Original: English]
[23 June 2005]

The Republic of Bulgaria does not apply and has never applied unilateral coercive economic measures. The Republic of Bulgaria rejects the use of unilateral coercive economic measures against any country that are inconsistent with the principles of international law as set forth in the Charter of the United Nations and that contravene the basic principles of multilateral trading system.

Cuba

[Original: Spanish]
[29 June 2005]

The application or encouragement of the use by any State of unilateral economic, political or other measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights constitutes a flagrant violation of the principles of international law set out in the Charter of the United Nations and the basic principles of the multilateral trading system. Such practices have been denounced and rejected by the General Assembly in numerous resolutions.

Cuba reiterates once again its strong condemnation of the application of such measures, which violate the most elementary norms and principles that govern harmonious international coexistence.

Cuba is well aware of the impact that unilateral economic measures have on the development of countries against which they are applied, for it has been the victim of such measures for more than 40 years. The embargo policy, imposed and subsequently strengthened by more than 10 United States administrations, is a concrete example that has had an appreciable negative impact on every aspect of the country's life.

Such a policy, which is aimed at destroying the Cuban Revolution, qualifies as an act of genocide under the Convention on the Prevention and Punishment of the

Crime of Genocide of 9 December 1948 and is an act of economic war. There exists no rule of international law that would justify an embargo in times of peace.

It is fitting here to draw attention to the consequences of this cruel and unjust policy for Cuban foreign trade and its impact on the country's development.

One of the restrictions of the embargo is that Cuba can neither export any product to the United States of America nor import any goods from that country; it cannot receive United States tourists; it cannot use the dollar in its foreign transactions; it has no access to credit and cannot carry out operations with multilateral, regional or American financial institutions; and its ships and aircraft cannot touch land anywhere in American territory.

It is estimated that in 2004 the negative impact of the embargo on Cuba's foreign trade amounted to $822.6 million, which is $57.2 million higher than the previous year's figure. The higher amount of such impact stemmed from the application of extraterritorial regulations, which, it is calculated, amounted to $380 million.

The cynical efforts of the Government of the United States to portray the embargo against Cuba as a purely bilateral affair have been clearly given the lie by its impact both on numerous States and on nationals and enterprises of third countries resulting from the extraterritorial provisions of the embargo, which not even international organizations belonging to the United Nations system have been able to escape. The following examples will illustrate this situation:

- Part of the technology, equipment and inputs of the centres of scientific research in the field of biotechnology, which develop and produce diagnostic and therapeutic means, such as anti-cancer vaccines, came from the Swedish firm Pharmacia, which was bought by Amersham and subsequently by the United States company General Electric. The latter, upon becoming the owner, imposed a deadline of one week for closing the Amersham office in Cuba and discontinuing all contacts with the island;

- As part of the Global Fund to Fight AIDS, Tuberculosis and Malaria project being carried out by the United Nations Development Programme (UNDP), $50,400 worth of canned meat was purchased for AIDS patients from the Brazilian firm Oro Rojo. Subsequently, the firm announced that the plant had been bought by an American company and that one of the first instructions received had been to cancel any business with Cuba.

Owing to the importance of the American market and American technological development, many firms throughout the world, despite the fact that there are no United States shareholder investments in them and they themselves have no such investments in the United States or any significant presence on its market, refrain from doing business with Cuba or break off their relations with the island in order not to jeopardize any conceivable future ties to capital belonging to the superpower.

- The First Caribbean International Bank (Bahamas) sent a letter to the Havanatur company informing it that as of 7 February 2005 it was terminating its banking relations because "it did not want to have problems with the Americans";

- The British bank Barclays recently informed the executives of the Cubaniquel company in London that it was examining the possibility of not establishing

business relations with the company because its manager was from the United States and the laws of that country applied not only to companies but also to individuals.

Furthermore, the impossibility of having access to the United States market continues to have a marked effect on foreign trade, making it necessary to relocate imports and exports to third countries, with consequent additional freight and insurance costs.

Added to this is the ferocious persecution waged against any foreign company or commercial or banking institution that establishes or intends to establish economic, commercial or financial relations with Cuban institutions. This situation has further financial fallout in the high-risk country status assigned to Cuba, the economic damage from which came to $72.2 million in 2004.

Within this context, our economy continues to feel the negative impact of laws such as the Torricelli Act of 1992, which established severe prohibitions against maritime traffic to and from Cuba, thus institutionalizing grave extraterritorial provisions, and the Helms-Burton Act of 1996, which included new regulations intended to intensify the embargo still further.

To this same end, in 2004 the measures mentioned in the report of what is known as the "Commission for Assistance to a Free Cuba", which were approved by George W. Bush on 6 May of that year, came into force. The measures are designed to tighten the embargo with a view to creating conditions that would facilitate an intervention on the island by the United States to enable it to impose a "regime change", as proclaimed by the President of the United States on 20 May 2004.

This is illustrated by the following examples, which are only a few of the many that exist:

When the foreign shipping line Zim was recently asked for information concerning rates between Havana and Chile, the reply given was that they could not be provided and the operation could not be carried out owing to the Torricelli Act, inasmuch as vessels belonging to the line frequently travel to American ports.

In April 2005, the new executives of the Canadian corporation Sherritt International and their family members were denied entry to the United States under Title IV of the Helms-Burton Act.

A total of 77 companies, banking institutions and NGOs from various parts of the world have been fined by the United States for actions considered as being in violation of the embargo regulations. Eleven of them are foreign firms or American companies established in third countries, such as Mexico, Canada, Panama, Italy, the United Kingdom, Uruguay, the Bahamas and the British West Indies (Anguilla).

As if that were not enough, it is prohibited for United States citizens or permanent residents to purchase products of Cuban origin legally, including tobacco and alcohol, in a third country, even for their own personal use.

For the Cuban people, the application of this brutal policy of embargo has had and continues to have serious repercussions on development. According to conservative preliminary calculations, the direct economic damage wreaked by it has already exceeded $82 billion. The major impact has been observed in sensitive areas of the economy with regard to the population, such as food, health and

education, with consequent adverse effects on its most vulnerable segments, namely women, the elderly and children.

Cuba once again denounces the application of unilateral economic measures aimed at undermining the independence, sovereignty and self-determination of peoples, sacred principles that we are not willing to relinquish. The application of such measures has a negative effect on the climate that ought to prevail in international relations and particularly, therefore, on the affected countries, whose development possibilities are thus curtailed. Cuba counts on an immediate reaction and response by the international community to put an end to this situation.

Guatemala

[Original: Spanish]
[29 June 2005]

There are no legal or regulatory impediments in Guatemala to the freedom of transit or trade, and it is the policy of the Government of Guatemala to oppose any coercive measure that runs counter to the provisions of international law.

Honduras

[Original: Spanish]
[30 June 2005]

Honduras does not apply any unilateral coercive economic measures that contravene the basic principles of the multilateral trade system.

Iraq

[Original: Arabic]
[6 July 2005]

Iraq supports the position set forth in General Assembly resolution 58/198 and other relevant General Assembly resolutions in which grave concern is expressed about the negative impact on trade and international cooperation brought about by unilateral coercive economic measures that transcend regional boundaries. Such measures also pose serious obstacles to the free movement of trade and capital at the regional and international levels.

Iraq joins with the international community in rejecting such unilateral measures and affirms that their application makes no contribution to promoting standards of fairness in international relations and respect for human rights.

Iraq is opposed to forms of unilateralism that run counter to the principle on which multilateralism is based, a principle that is a cornerstone of the performance of the United Nations system.

Iraq shares the concern of the international community in regard to the use of unilateral coercive measures that adversely affect the economy and development

efforts of countries and have a general negative impact on international economic cooperation and on worldwide efforts to move towards a non-discriminatory and open multilateral trading system.

Jamaica

[Original: English]
[25 August 2005]

Unilateral coercive measures adversely affect the prospects for economic development of developing countries, distort trade and investment flows, infringe the sovereignty of States and create obstacles to the full enjoyment of human rights by peoples and individuals under the jurisdiction of other States.

Jamaica attaches great importance to the principles and purposes of the Charter of the United Nations and constitutes to oppose the extraterritorial application of national legislation that undermines Charter principles or are contrary to international law.

As a member of the Group of 77 and the Non-Aligned Movement, Jamaica joins in condemning the imposition of those laws and regulations which have an extraterritorial impact on States and reiterates the need for elimination of such measures, including unilateral sanctions against developing countries.

Mindful of the long-lasting and negative effects of unilateral coercive economic measures on development, especially on that of developing countries, the Government of Jamaica will not promulgate any legislation or measure that would infringe on the sovereignty of any State or its lawful national interests or obstruct the freedom of trade, navigation and other processes vital to the development of countries and regions.

Kazakhstan

[Original: English]
[2 August 2005]

The Republic of Kazakhstan as in the past does not accept use by any State of unilateral extraterritorial measures which undermine an economic welfare of any other country if these measures have not been authorized by relevant organs of the United Nations.

The Republic of Kazakhstan does not use any unilateral coercive economic measures which negatively impact on economies of other countries, condemns such measures and urges their elimination.

Panama

[Original: Spanish]
[19 June 2005]

The Republic of Panama considers that unilateral coercive economic measures may be applied against developing countries only when those measures are duly authorized by the United Nations, and provided that they do not infringe on the principles of international law set out in the Charter of the United Nations and the basic principles of the multilateral trading system.

Senegal

[Original: French]
[16 June 2005]

Senegal does not currently apply against any country laws or measures of an economic or other nature that are not authorized by relevant organs of the United Nations or are inconsistent with the principles of international law as set forth in the Charter of the United Nations and that contravene the basic principles of the multilateral trading system.

Sudan

[Original: English]
[15 July 2005]

The Government of the Sudan pursues a policy that respects the principle of the sovereign equality of States and non-interference in the internal affairs of others. Consistent with its principled stand, the Sudan opposes imposition of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion on developing countries for their devastating impact on the efforts of those countries to achieve sustainable development and because they constitute a violation of the norms of international law and the Charter of the United Nations. Indeed the delegation of the Sudan participates every year in the debate of the General Assembly on the Agenda item and votes, beside the majority of Member States, in favour of General Assembly resolutions prohibiting the imposition of such unilateral measures and sanctions. The Government of the Sudan reaffirms that it does not promulgate or apply any laws or measures that could, by being applied outside its own national borders, affect the sovereignty of any State. The Government of the Sudan calls for the repeal of laws that impose such measures.

On the basis of the foregoing, the Sudan opposes the economic and commercial embargo imposed by the United States against Cuba, which has caused great damage to the Cuban people and violated its legitimate rights and interests, being a flagrant violation of international law and the Charter of the United Nations and showing disregard for their lofty and noble principles.

The Sudan itself continues to suffer from the renewal of the unilateral economic sanctions imposed on it by the United States since November 1997. It was

unfortunate that the United States, in order to exert pressure on the Government of the Sudan, imposed these sanctions on the basis of ungrounded suspicions and accusations that have remained unsubstantiated for many years. Such unilateral sanctions are in violation of the legitimate right of the Sudan and Cuba and all developing countries and their people to choose their own political, economic and social systems that fully respond to their aspirations.

Since the adoption of the General Assembly resolution, the Government of the Sudan has put the issue in the forefront of the multilateral system with a view to mobilizing support for the elimination of all forms of unilateral coercive economic measures on developing countries.

Syrian Arab Republic

[Original: Arabic]
[14 July 2005]

The Syrian Arab Republic places special emphasis on respect for the right of all peoples to self-determination, to determine their political status and to pursue economic, social and cultural development, and stresses its rejection of unilateral extraterritorial coercive economic measures as a means of political and economic compulsion.

The overwhelming majority of the international community has rejected unilateral extraterritorial coercive economic measures and unilateral sanctions and the General Assembly has adopted numerous resolutions, the most recent of them being resolution 58/198, calling on all States not to adopt or apply coercive measures unilaterally imposed by one State or extraterritorial legislation, inasmuch as they are inconsistent with the recognized principles of international law, and has called upon all States not to recognize or apply unilateral extraterritorial coercive measures imposed by any State which are contrary to recognized principles of international law. The General Assembly has reaffirmed that all peoples have the right to self-determination and that, by virtue of that right, they freely determine their political status and freely pursue their economic, social and cultural development. Despite that, certain States are continuing to apply such laws and are even making greater use of them either by broadening them or by adding further countries to their list, in disregard of the relevant resolutions of the General Assembly and of the fact that such measures are inconsistent with the Charter of the United Nations and contravene the principles of the multilateral trading system and the rules of the World Trade Organization.

The Syrian Arab Republic refers to the declaration issued by the Thirteenth Conference of Heads of State or Government of the Non-Aligned Movement, which was held in Kuala Lumpur, Malaysia, from 20 to 25 February 2003, in which the Heads of State or Government expressed their recognition of the right of States freely to determine their political, economic and social system. The Movement condemned the continued application by certain countries of unilateral and coercive economic measures, including the imposition of extraterritorial legislation on certain developing countries. The Heads of State and Government of the member countries of the Movement called on all States not to recognize unilateral, extraterritorial laws enacted by certain countries that impose penalties on other

States and foreign companies and individuals. They reaffirmed that such laws are incompatible with the norms of international law and contravene the purposes and principles of the Charter of the United Nations and the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. They also expressed regret at the continued implementation of such laws and the total disregard of the appeals by the Non-Aligned Movement, the General Assembly and other international organizations.

The Ministers for Foreign Affairs of the Non-Aligned Movement at their ministerial conference in Durban, South Africa, which met on 18 and 19 August 2004, expressed deep concern over the imposition of unilateral sanctions against the Syrian Arab Republic by the United States of America contrary to international law and the purposes and principles of the Charter of the United Nations and called on the United States to declare the so-called "Syria Accountability Act" null and void.

The Syrian Arab Republic also refers to the declaration of the South Summit which met in Doha, Qatar, from 12 to 16 June 2005 at which the Heads of State and Government of the member countries of the Group of 77 and China renewed their firm rejection of the imposition of laws and regulations with extraterritorial impact and all other forms of coercive economic measures, including unilateral sanctions against developing countries, and called on the international community to adopt urgent and effective measures to eliminate the use of such measures. The work programme adopted by the Summit emphasized the urgent need for the immediate elimination of such measures and emphasized that they not only undermine the principles enshrined in the Charter of the United Nations and international law but also severely threaten the freedom of trade and investment.

The Heads of State and Government at the Summit expressed their deep concern at the economic and social impact on the Syrian people of unilateral sanctions imposed by the United States of America against the Syrian Arab Republic and called upon the United States of America to declare the so-called "Syria Accountability Act" null and void and to resort to dialogue between the two countries based on respect and mutual interest in the best interest of the two nations and their peoples.

The Syrian Arab Republic therefore reaffirms the need to put an end to all extraterritorial and unilateral economic measures as a means of political and economic coercion. That would make way for a positive climate in international relations and strengthen the role of international legitimacy in safeguarding the principle of sovereignty and equality between States.

Trinidad and Tobago

[Original: English]
[21 July 2005]

The Government of the Republic of Trinidad and Tobago does not apply unilateral economic measures as a means of political and economic coercion against other countries.

Uruguay

[Original: Spanish]
[22 June 2005]

Uruguay bases its foreign policy on the pillar of the principle of the sovereign equality of States and in this regard considers the intent to enact and enforce laws and provisions with extraterritorial effects to be incompatible with public international law.

Thus, national legislation does not recognize the extraterritorial application of laws of other States. For this reason, Uruguay voted in favour of General Assembly resolution 56/179.

III. Replies received from United Nations bodies

Economic and Social Commission for Western Asia

Unilateral economic measures continue to negatively impact developing countries in the Western Asia region, where a disproportionate number of countries are affected by them. Unilateral economic measures continue to restrict investment, trade and technology acquisition in developing countries in Western Asia. As a result, the prospects for economic growth, not only of targeted countries but also neighbouring countries in the region, are clearly diminished. Moreover, sustainable development and poverty alleviation policies are hampered by restricting the affected countries' access to export markets needed to generate employment, and to technologies required to support economic and social development. Unilateral measures — particularly those of broad and sweeping scope — may significantly derail national efforts to progressively achieve the United Nations Millennium Development Goals.

The impact of unilateral measures on developing countries is directly proportional to the significance of the party imposing these measures to the targeted country. As the major trade and financial partners of countries in Western Asia, the United States and the European Union serve as engines of economic growth in the region. Consequently, the imposition of unilateral economic measures on countries in the region may have far-reaching impacts, not only on the targeted country, but also on the wider region. Currently, unilateral economic measures are applied to a number of countries in the Western Asia region.

Israel has employed unilateral economic measures as a means of political and economic coercion in the occupied Palestinian territories. Such measures include movement restrictions, house demolitions, land confiscation and the erection of a barrier. These measures have had detrimental repercussions on the living conditions of the Palestinian people. World Bank estimates for overall economic performance show that in 2004, Palestinian gross domestic product (GDP) was lower by 20 per cent compared to 1999 while GDP per capita was lower by 37 per cent. In terms of United States dollars, GDP estimates dropped from $4.1 billion in 1999 to $3.3 billion in 2004, while GDP per capita fell from $1,493 to $934 over the same period.[1]

[1] The World Bank, "Disengagement, the Palestinian economy and the Settlements", 23 June 2004 (table 1, p. 30).

Office of the United Nations High Commissioner for Human Rights

In response to General Assembly resolution 58/198 of 23 December 2003, the Office of the United Nations High Commissioner for Human Rights suggest referring to Assembly resolution 58/171 of 22 December 2003 and resolution 59/188 of 20 December 2004, entitled "Human rights and unilateral coercive measures".

Resolution 58/171 requests the Secretary-General to collect views and information from Member States and to submit a report thereon to the General Assembly. Those views and information can be found in the report of the Secretary-General of 15 October 2004 (A/59/436). Resolution 59/188 requests the Secretary-General to collect views and information on the same subject. A note verbale has been sent to all Member States soliciting information for the report that the Secretary-General will present to the sixtieth session of the General Assembly.

In addition, the Commission on Human Rights has adopted two similar resolutions (2004/22 and 2005/14) since the finalization of the previous report of the Secretary-General (A/58/301). A report of the Secretary-General was submitted to the Commission on 15 December 2004 (E/CN.4/2005/37) and a note verbale has been sent to all Member States soliciting information for the report mandated by Commission resolution 2005/14.